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SUBJECT: AFTER SUSPENDING MEETING, CREDENTIALS COMMITTEE DEFERS CONSIDERATION OF CREDENTIALS OF MADAGASCAR AND GUINEA

¶1. (U) SUMMARY: On December 8 the Credentials Committee met to consider the credentials of delegations to the 64th session of the General Assembly (GA). Members of the Credentials Committee include Brazil, China, Jamaica, the Philippines, United States, the Russian Federation, Spain, Tanzania and Zambia. Zambia and Tanzania, on behalf of the African Group, challenged the credentials of Madagascar and Guinea. The Committee then suspended its meeting until December 11, at which time the Committee adopted by consensus a proposal of the Chair that consideration of Madagascar and Guinea's credentials be deferred, but all other credentials be accepted. END SUMMARY.

¶2. (U) At the first meeting of the Credentials Committee during the 64th session of the GA, the PermRep of the Philippines, Hilario Davide, was elected Chair. It was noted that since the Secretariat's memo, the formal credentials of the United States had been submitted.

¶3. (U) Zambia intervened to question whether the credentials submitted by Madagascar and Guinea were signed by the new and constitutional authorities of those States. If they were signed by the unconstitutional regime, then Zambia was prepared to challenge them. Zambia noted that in the past the Credentials Committee has refused to accredit governments that came to power through force (including in Haiti, Sierra Leone, and Cambodia). Zambia requested that the Committee act to protect the commitment to democracy and Rule of Law in line with past practice of the Credentials Committee. Tanzania aligned itself with Zambia, noting that this was a position held by the African Group.

¶4. (U) USUN/L intervened, noting that previous information indicated that there were unlikely to be credentials challenges during this session. Brazil, Spain, Jamaica and Russia also indicated that they were not prepared to act on the challenge today and requested more time to consult capital and consider information on past practice. Spain suggested that the Secretariat submit to the Committee a provisional document outlining past practice of the Committee and indicating available actions. Russia noted that GA and Credentials Committee practice regarding credentials challenges is diverse and contradictory, but indicated sympathy for the African proposal.

¶5. (U) In response to a question from Russia, UN Assistant Secretary-General for Legal Affairs Peter Taksoe-Jensen stated that only one set of credentials had been submitted on behalf of Madagascar and Guinea, respectively. Madagascar's credentials were submitted on 16 September 2009 and signed by the Minister for Foreign Affairs of the High Transitional Authority and listed Rajoelina as a representative. The credentials for Guinea were received on 26 September 2009 and were signed by Prime Minister Kumara.

¶6. (U) Taksoe-Jensen stated that decisions of the Credentials Committee are decided by a majority of Member

States present and voting. He outlined three options for the Committee in response to the challenge: (1) to adopt all delegations' credentials; (2) to adopt the credentials of all delegations except Madagascar and/or Guinea, and defer consideration of their credentials; or (3) to adopt the credentials of all delegations except Madagascar and/or Guinea and recommend that the GA reject or not accept those credentials. The effect of deferring consideration of credentials is to allow Member States to continue to participate provisionally in the GA with the same rights and privileges of other Members. However, the credentials of these States would remain open to challenge and could be referred back to the Credentials Committee at any time. A rejection of credentials would prevent the State's Representative from sitting in the GA or related bodies, though the State would remain a Member and would retain a seat and nameplate. The State's mission would continue to function, would be allowed to communicate with other delegations, and representatives could continue to participate in non-GA bodies unless determined otherwise.

¶ 7. (U) The Committee suspended its meeting until December 11 to allow the Secretariat time to prepare and distribute an informal document on past practice for credentials challenges. In response to a statement of the Chair indicating that due process required hearing from the affected States before rejecting their credentials, Taksoe-Jensen noted that there is no precedent for hearing non-Committee Members during Credentials Committee deliberations.

¶ 8. (U) On December 10, the UN Office of Legal Affairs
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(OLA) distributed a non-paper outlining significant past precedents of the Credentials Committee. It is USUN's understanding that on December 11, the African Union held a meeting at which the decision was made to support deferral of the credentials decision for Madagascar and Guinea. When the Committee resumed its meeting on December 11, the Chair presented the results of his informal consultations in which a consensus was reached to defer consideration of the challenged credentials but to accept all other credentials. The Credentials Committee approved this solution by consensus. Paragraph 11 of the Committee's report further states: "The Members of the Committee decided to adopt this proposal on the understanding that the representatives of both Guinea and Madagascar will continue to have the right to participate provisionally in the activities of the sixty-fourth session with all the rights and privileges that other Member States enjoy who have had their credentials accepted. Should there be a formal objection during the sixty-fourth session to the participation of either Guinea or Madagascar, then this objection could, within the framework of the rules of the General Assembly, be referred to the Credentials Committee for its consideration."

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